

REMARKS/ARGUMENTS

In the final Office Action dated March 10, 2006, Claims 1-10, 12-20, and 27-37 are pending. Claims 1, 2, 10, 12, 19, 20, and 28-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,840,289 to Fait, et al. Claims 6-9 and 15-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fait, et al. Claims 4 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,892,227 to MacLaughlin in view of U.S. Patent No. 4,687,116 to Dutt, et al. The Office Action also states that “Claims 1-1, 12-20 and 28-31 are rejected under U.S.C. 103(a) as being unpatentable over MacLaughlin.” Office Action, page 3. No basis of rejection is provided for the rejection of Claims 3 and 5.

Claim 1 is amended above to incorporate Claims 3 and 5. Claim 5 previously depended from Claim 3, which depended from Claim 1. Claims 12-20, 30, and 31 are cancelled above. No new matter has been added and no new issues are raised. Applicant respectfully requests reconsideration in light of the amendments and the following remarks.

Neither Claim 3 nor 5 was rejected based on Fait, et al. Accordingly, the rejection based on Fait, et al. is overcome by the incorporation of each of these claims into Claim 1. As noted above, no basis of rejection was provided for the rejection of Claims 3 and 5; however, in the event that these claims were to be included in the rejection based on MacLaughlin, Applicant respectfully traverses.

As amended, Claim 1 is directed to an easy-opening, retortable container that includes a base portion and a single-layer plastic membrane friction welded to the base portion. The plastic membrane has coplanar inner and outer portions defined by an annular groove so that the inner portion can be removed from the outer portion. An integral grip portion, in the form of a circumferentially continuous annular pull ring, is connected to the inner portion and extends generally in a plane substantially parallel to the membrane. The grip portion defines a diameter that substantially corresponds to the diameter of said annular groove. Thus, according to Claim 1, the grip portion is a circumferentially continuous annular pull ring that is connected to the inner portion of the membrane and defines a diameter that substantially corresponds to the diameter of the annular groove.

MacLaughlin does not teach these features of Claim 1. In particular, the Office Action acknowledges that MacLaughlin, even when modified in view of Dutt, et al., does not teach “the

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grip portion being an annular pull ring of a diameter substantially corresponding to the annular groove.” Office Action, page 4. Nevertheless, the Office Action states in this regard:

It would have been an obvious matter of design choice to form the annular pull ring of a diameter substantially corresponding to the annular groove, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Office Action, page 4.

Applicant disagrees. It would not have been obvious to modify the pull ring **40** of MacLaughlin to correspond to the diameter of the score line **44**. To the contrary, MacLaughlin describes a configuration in which the diameter of the pull ring **40** is substantially smaller than the diameter of the score line **44**, and spiraled score lines **42, 43** provide a path between the smaller diameter of the pull ring **40** and the larger diameter of the score line **44**. In the alternate embodiment of Figure 4 of MacLaughlin, the score line **52** is not an annular groove, but instead defines a pour spout opening. Moreover, neither MacLaughlin nor any of the other cited references provides any motivation for modifying the size of the pull ring **40** to correspond to the diameter of the annular groove.

Further, MacLaughlin does not teach each of the other features of Claim 1. For example, MacLaughlin does not teach a single-layer plastic membrane. To the contrary, MacLaughlin teaches a closure member having multiple layers, including a gas-impermeable barrier layer that is bonded to the bottom surface of a plastic layer.

As noted above, none of the other references are relied upon for the rejection of either of previous Claims 3 and 5. Thus, the amendment of Claim 1 to incorporate both of these claims overcomes the other rejections, and the only other pending claims depend from Claim 1. Further, Claim 1 is distinguishable from the other cited references on other grounds. For example, Claim 1 specifically recites that the single-layer plastic membrane has coplanar inner and outer portions that are defined by the annular groove. Fait, et al. does not teach or suggest this feature.

For the above reasons, Applicant respectfully submits that the rejection of Claim 1 (and dependent Claims 2, 4, 6-10, 28, and 29) is overcome. The remaining claims are cancelled. Thus, the application is in condition for allowance.

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In the event that the finality of the Office Action is maintained and any of the rejections are also maintained, Applicant respectfully requests entry of the above amendment. The amendment merely incorporates into Claim 1 the features of previous dependent Claim 5 (including dependent Claim 3, from which Claim 5 depended). Therefore the amendment does not introduce any new issues, and, moreover, the amendment puts the claims in better condition for appeal.

* * * *

CONCLUSIONS

In view of the remarks presented above, Applicant submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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